

IC 22-11-14

Chapter 14. Regulation of Fireworks by Fire Marshal

IC 22-11-14-1

Definitions

Sec. 1. As used in this chapter and IC 22-11-14.5:

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

"Common firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Common fireworks:

(1) include:

(A) ground and hand-held sparkling devices, which include dipped stick, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flutter sparklers;

(B) aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(C) ground audible devices, which include firecrackers, salutes, and chasers; and

(D) firework devices containing combinations of two (2) or more of the effects described in the preceding three (3) clauses; and

(2) do not include the following novelties and trick noisemakers:

(A) Snakes or glow worms.

(B) Smoke devices.

(C) Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item.

(D) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand-held (handle fountain).

"Dipped stick" or "wire sparkler" means a common firework that consists of a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the category of common fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper-wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of common fireworks and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle

loading cannons, or small arms.

(8) Indoor pyrotechnics special effects material.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

(1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle-type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks not approved for sale in Indiana.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to

ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

"Sky rocket" means a device that:

- (1) consists of a tube that does not exceed one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;
- (2) contains a wooden stick for guidance and stability; and
- (3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as common fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

- (1) is attached to a post or tree by means of a nail or string;
- (2) contains up to six (6) driver units (tubes not exceeding

one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and
(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

(Formerly: Acts 1939, c.154, s.1; Acts 1947, c.366, s.1; Acts 1959, c.290, s.1; Acts 1975, P.L.259, SEC.1.) As amended by P.L.236-1983, SEC.1; P.L.229-1985, SEC.1; P.L.8-1993, SEC.296; P.L.168-1996, SEC.1; P.L.25-2004, SEC.1.

IC 22-11-14-2

Public displays; permits; fees; qualified operations; denial of permit; violations

Sec. 2. (a) The fire prevention and building safety commission may:

- (1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and
- (2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:

- (1) name a competent operator who is to officiate at the display;
- (2) set forth a brief resume of the operator's experience;
- (3) be made in writing; and
- (4) be received with the applicable fee by the office of the state fire marshal at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be so located, discharged, or fired as, in the opinion of:

- (1) the chief of the fire department of the city or town in which the display is to be held; or
- (2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person.

(d) A permit granted under this section is not transferable.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person who possesses, transports, or delivers fireworks, except as authorized under this section, commits a Class A misdemeanor.

(Formerly: Acts 1939, c.154, s.2; Acts 1951, c.251, s.1; Acts 1972, P.L.178, SEC.1; Acts 1975, P.L.259, SEC.2.) As amended by Acts

1978, P.L.2, SEC.2249; P.L.229-1985, SEC.2; P.L.3-1990, SEC.78; P.L.2-1995, SEC.86; P.L.168-1996, SEC.2; P.L.25-2004, SEC.2.

IC 22-11-14-3

Public displays; certificate of insurance; violations

Sec. 3. (a) The governing body of the municipality shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than ten thousand dollars (\$10,000) and to property in an amount of not less than ten thousand dollars (\$10,000), by reason of the licensed display, and arising from any acts of the licensee, his agents, employees, or subcontractors. However, the governing body of the municipality may in its discretion require additional amounts of insurance coverage not to exceed one hundred thousand dollars (\$100,000) for damages caused to a person or persons, or one hundred thousand dollars (\$100,000) for damage to property.

(b) A person who fails to obtain a certificate of insurance required under subsection (a) commits a Class A misdemeanor.

(Formerly: Acts 1939, c.154, s.3; Acts 1975, P.L.259, SEC.3.) As amended by P.L.236-1983, SEC.2.

IC 22-11-14-4

Wholesale sales; exports; signal or ceremonial purposes

Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any resident wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or

(B) fireworks not approved for sale in Indiana if they are to be shipped directly out of state within five (5) days of the date of sale;

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(3) the sale or use of blank cartridges for:

(A) a show or theater;

(B) signal or ceremonial purposes in athletics or sports; or

(C) use by military organizations;

(4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;

(5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class B explosives from the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury; or

(6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:

(1) is a resident of Indiana;

(2) possesses for resale common fireworks approved or not approved for sale in Indiana;

(3) is engaged in the interstate sale of common fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year;

(4) sells common fireworks described in subdivision (2) only to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale; and

(5) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

(c) A purchaser may not provide a written and signed assurance that the fireworks purchased are to be shipped out of Indiana and then sell or use them in Indiana.

(Formerly: Acts 1939, c.154, s.4.) As amended by P.L.229-1985, SEC.3; P.L.168-1996, SEC.3.

IC 22-11-14-5

Violations; removal of stocks; restrictions on shipments and sales; certificate of compliance

Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of one thousand dollars (\$1,000).

If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance expires December 31 of the year during which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable, except that a retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items. A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any

certificate of compliance issued to any manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed or marked on the package, box or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

(Formerly: Acts 1939, c.154, s.5; Acts 1959, c.290, s.2; Acts 1975, P.L.259, SEC.4.) As amended by Acts 1977, P.L.267, SEC.1; P.L.236-1983, SEC.3; P.L.222-1989, SEC.1; P.L.2-1995, SEC.87.

IC 22-11-14-6

Violations; offense

Sec. 6. A person who violates section 4(c), 5(c), 5(d), 7, or 8 of this chapter commits a Class A misdemeanor.

(Formerly: Acts 1939, c.154, s.6; Acts 1972, P.L.178, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2250; P.L.236-1983, SEC.4; P.L.229-1985, SEC.4.

IC 22-11-14-7

Fireworks stand retail sales permit; requirements

Sec. 7. (a) A retailer selling fireworks at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of each year and must require that at least the following information be supplied by the retailer:

(1) The retailer's retail merchant certificate number or proof of application for a certificate number.

(2) The location of each stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, he shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which he offers for sale conform to

applicable law.

(e) At each stand, the retailer shall provide:

(1) a posted certificate of compliance, including a descriptive list of approved fireworks; and

(2) a supervisor who is at least sixteen (16) years of age.

(f) Fireworks may not be sold at retail from trucks, vans, or automobiles.

As added by P.L.236-1983, SEC.5. Amended by P.L.179-1991, SEC.24; P.L.1-1992, SEC.112.

IC 22-11-14-8

Fireworks for sale at retail; limitations

Sec. 8. A person shall not sell at retail, or offer for sale at retail, any fireworks, novelties, or trick noisemakers other than the following:

(1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.

(2) Cylindrical fountains.

(3) Cone fountains.

(4) Illuminating torches.

(5) Wheels.

(6) Ground spinners.

(7) Flitter sparklers.

(8) Snakes or glow worms.

(9) Smoke devices.

(10) Trick noisemakers, which include:

(A) Party poppers.

(B) Booby traps.

(C) Snappers.

(D) Trick matches.

(E) Cigarette loads.

(F) Auto burglar alarms.

As added by P.L.236-1983, SEC.6.

IC 22-11-14-9

Enforcement

Sec. 9. The state fire marshal is charged with the responsibility of enforcing this chapter.

As added by P.L.236-1983, SEC.7.

IC 22-11-14-10

Wholesalers; records; signs in places of business

Sec. 10. (a) Each interstate wholesaler shall keep a record of each sale of fireworks not approved for sale in Indiana. This record must include:

(1) the purchaser's name;

(2) the purchaser's address; and

(3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell fireworks not approved for sale in Indiana only to other resident wholesalers and to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars (\$5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.

As added by P.L.229-1985, SEC.5.